

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CURTIS L. DOWNING,

Plaintiff,

vs.

JOHNNIE GRAVES, *et al.*,

Defendants.

2:12-cv-00332-JCM-CWH

ORDER

Presently before the court is *pro se* plaintiff Curtis L. Downing's motion for preliminary injunction. (Doc. # 29). Defendants have responded (doc. # 47) and plaintiff has replied (doc. # 57).

I. Background

Plaintiff is a prisoner currently in custody at the Southern Desert Correctional Center. Plaintiff, a self-described "jailhouse lawyer", alleges that he is the subject of a conspiracy between the law library supervisor, Rashonda Smith, and correctional officer "Mesa" (no first name given). Plaintiff maintains that Smith and Mesa have conspired in an effort to prevent him from assisting fellow inmates in filing lawsuits challenging their convictions, in violation of his and others' First Amendment rights. More specifically, plaintiff alleges that Smith and Mesa have intentionally arranged the law library scheduling

1 sessions in a manner that makes it impossible for plaintiff to meet with the inmates he is assisting, and
2 that they have confiscated various legal materials belonging to plaintiff and the inmates he is assisting.

3 **II. Legal Standard**

4 As an initial matter, the court acknowledges that the complaint was filed *pro se* and is therefore
5 held to less stringent standards. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (“A document filed *pro se*
6 is to be liberally construed, and a *pro se* complaint, however inartfully pleaded, must be held to less
7 stringent standards than formal pleadings drafted by lawyers.”) (internal quotations and citations
8 omitted). However, “*pro se* litigants in the ordinary civil case should not be treated more favorably than
9 parties with attorneys of record.” *Jacobsen v. Filler*, 790 F.2d 1362, 1364 (9th Cir.1986)

10 With respect to preliminary injunctions, the Supreme Court has stated that courts must evaluate
11 the following factors: (1) likelihood of success on the merits; (2) likelihood of irreparable injury if
12 preliminary relief is not granted; (3) balance of hardships; and (4) advancement of the public interest.
13 *Winter v. N.R.D.C.*, 129 S. Ct. 365, 374–76 (2008).

14 **III. Discussion**

15 Plaintiff moves the court to order the detention center to return the allegedly confiscated
16 materials, and seeks a determination that the prison’s policies regarding library access and legal materials
17 serve no legitimate penological purpose, but are instead intended to make it more difficult for prisoners
18 to access the courts. Plaintiff essentially seeks a court order requiring that the prison make it easier for
19 him to assist other inmates in the research, drafting, and filing of lawsuits.

20 Plaintiff has failed to demonstrate he enjoys any likelihood of success on the merits. Even
21 liberally construing his pleadings, it appears the crux of plaintiff’s dispute regards his “constitutional
22 right” to assist other inmates in their own lawsuits.

23 The Supreme Court has declared that “when a prison regulation impinges on inmates’
24 constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests.”
25 *Shaw v. Murphy*, 532 U.S. 223, 229 (2001)(citing *Turner v. Safley*, 482 U.S. 78, 89 (1987)). The
26 detention center’s scheduling of library access and limit on the number of inmates that may access the

1 library at one time are meant to ensure the safety and security of the institution, and therefore are
2 legitimate penological interests. As such, plaintiff does not enjoy a likelihood of success on the merits
3 of his claims, and his motion for an injunction is denied.

4 Accordingly,

5 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff's motion for a
6 preliminary injunction (doc. # 29) be, and the same hereby is, DENIED.

7 Dated April 8, 2014.

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9 
10 UNITED STATES DISTRICT JUDGE